

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

<p>LIFEGUARD LICENSING CORP. and POPULARITY PRODUCTS, LLC,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">- against -</p> <p>JERRY KOZAK, ANN ARBOR T-SHIRT COMPANY, LLC and RICHARD WINOWIECKI,</p> <p style="text-align: center;">Defendants.</p>	<p>X</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>X</p>	<p>Civil Action No. 15-CV-08459-LGS</p> <p>Judge Lorna G. Schofield</p> <p>Magistrate Judge James C. Francis IV</p>
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NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon the accompanying Memorandum of Law dated December 12, 2016, the Declaration of Thomas P. Heed and exhibits attached thereto, defendants will move this Court before the Honorable James C. Francis IV, Courtroom 18D, 40 Foley Square, New York, New York 10007, for an order (a) precluding Brian Sowers from testifying as an expert witness rebutting James T. Berger; (b) precluding Brian Sowers from testifying as an expert witness rebutting Dr. Thomas Maronick; (c) precluding plaintiffs from using any portion of a report issued by Brian Sowers entitled, “Amended Reply Expert Report of Brian M. Sowers to the Report of James T. Berger;” (d) precluding plaintiffs from using any portion of a report issued by Brian Sowers entitled, “Reply Expert Report of Brian M. Sowers to the Report of Dr. Thomas J. Maronick;” and (e) granting such other and further relief as this Court deems just and proper.

Dated: December 12, 2016

Respectfully submitted,

By: /s/ Thomas Heed

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